

JEFFREY LIBBY,)
)
 Plaintiff)
 v.) **03-CV-035-B-W**
)
 JEFFREY MERRILL,)
)
 Defendant.)

On December 31, 2003, the United States Magistrate Judge filed her Recommended Decision in this matter. On January 7, 2004, the Plaintiff filed his Objections to the Recommended Decision and, January 26, 2004, the Defendant filed a Response to the Objections. I have reviewed and considered the Recommended Decision, together with the entire record; I have made a *de novo* determination of all matters adjudicated by the Recommended Decision; and I concur with the recommendations of the Magistrate Judge for the reasons set forth in her Recommended Decision, and determine that no further proceeding is necessary.

1. Therefore, it is ORDERED that the Recommended Decision of the Magistrate Judge is AFFIRMED;
2. The Defendant's Motion to Strike the remaining portions of the Complaint is GRANTED;
3. The Defendant's Motion for Summary Judgment is GRANTED and the Plaintiff's Complaint is DISMISSED with prejudice on the issue of

whether the Plaintiff has exhausted his administrative remedies and
without prejudice on all other issues.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
United States District Judge

Dated this 10th day of March, 2004.

Plaintiff

JEFFREY LIBBY

represented by **ANDREWS B. CAMPBELL**
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V.

Defendant

JEFFREY MERRILL,
Individually and in his official
capacity as Warden

represented by **DIANE SLEEK**
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